

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

SOFTWARE FREEDOM
CONSERVANCY, INC. and ERIK
ANDERSEN,

Plaintiffs,

v.

BEST BUY CO., INC.; SAMSUNG
ELECTRONICS AMERICA, INC.;
WESTINGHOUSE DIGITAL
ELECTRONICS, LLC; JVC AMERICAS
CORPORATION; WESTERN DIGITAL
TECHNOLOGIES, INC.; ROBERT
BOSCH LLC; PHOEBE MICRO, INC.;
HUMAX USA INC.; COMTREND
CORPORATION; DOBBS-STANDFORD
CORPORATION; VERSA
TECHNOLOGY INC.; and GCI
TECHNOLOGIES CORPORATION,

Defendants.

Civil Action No: 09-cv-10155 (SAS)
Judge Scheindlin

DECLARATION OF KENNETH
RANDALL IN SUPPORT OF
RESPONDENT WESTINGHOUSE
DIGITAL, LLC'S OPPOSITION TO
PLAINTIFFS' MOTION TO FIND
WESTINGHOUSE DIGITAL, LLC IN
CONTEMPT

I, Kenneth Randall, declare as follows:

1. I am currently Senior Product Manager for Westinghouse Digital, LLC ("WD").
2. As part of my responsibilities I assist and work with John Araki, WD's Vice President, Products and the designated Compliance Officer under the Federal Communications Commission's ("FCC") Order and Consent Decree dated April 9, 2008 ("Order") with Westinghouse Digital Electronics, LLC ("Mora"). A true and correct copy of this Order is attached hereto.

3. The Order requires the periodic submission of Compliance Reports and, on or about June 2008, Mora submitted to the FCC the first of its required Compliance Reports, called Compliance Plan. A copy of this Compliance Plan is attached hereto.

4. The June 2008 Compliance Plan states that Mora had established on its website the remedial notices and firmware download capabilities required by the Order with respect to all affected television models. *See, e.g.*, Compliance Plan §§ 1(b), 2(b)(i) and 2(c).

5. One of the affected models is Mora's Model TX-52F480S. *See* Compliance Plan, Exhibit D. I have been advised by WD's counsel that this is the same Mora model that was identified by plaintiffs in their Rule 56.1 Statement of Material Facts, ECF 114, ¶ 11.

6. On April 2, 2010, WD purchased from Credit Managers Association of California, doing business as Credit Management Association ("CMA"), Mora's website. As part of the transaction with CMA, WD assumed the liabilities and obligations owed to purchasers of Mora's televisions, and also the ongoing requirements under the FCC's Order. WD has continued to make V-Chip update firmware available for the affected models, including Mora's Model TX-52F480S, as required by the FCC Order.

7. The firmware download is compiled into machine-only readable form—not a form that can be read and understood by humans. Moreover, the firmware is specific to models and cannot be used to operate any other product, model, or device.

8. I declare under penalty of perjury that the foregoing is true and correct.
Executed on March 9, 2011 in Orange, California.

/s/ 